

REMARKS

Reconsideration of the pending application is respectfully requested on the basis of the following particulars:

Examiner interview

Applicant appreciates the courtesies extended by the examiner to applicant's representative during the personal interview conducted on April 27, 2006.

During the interview, aspects of the present invention were discussed that would distinguish the present invention over the cited references. It was discussed, and agreed, that aspects of the present invention that are not found in the cited references include that in the present invention, data downloaded from the node computer to the terminal is stored for later use in subsequent transactions, thereby creating a permanent modification or upgrade to the terminal. Another distinguishing feature discussed is that in the present invention, data for establishing further functionality in the terminal is provided in (and stored in) the node computer in advance. Also, it was noted that a limitation further describing the role of the data carrier (as providing an indication of the type of transaction to be performed) is not disclosed in Daly. The examiner indicated that any of these aspects of the present invention would appear to define over Daly.

Rejection of claim 16 under 35 U.S.C. § 112, first paragraph

Claim 16 presently stands rejected as failing to comply with the enablement requirement. The examiner asserts that "to one of ordinary skill computer memory and a processor are independent and stand-alone structures and would not have a part of its structure in a terminal and the other portion on a portable data carrier."

Applicant disagrees with the examiners interpretation and notes, as discussed at length in response to the previous Office Action, that both a computer memory and a processor may be composed of a plurality of discrete logical units which may in fact be contained in separate structures which may be electrically connected to one another.

Claim 16 has been amended to clarify that operationally necessary elements of the processor unit or storage device are formed at least partially on a portable data carrier. It is respectfully submitted that the amended claim 16 is sufficiently enabling to allow a person skilled in the art to make and/or use the invention. Accordingly, withdrawal of the rejection is respectfully requested.

Rejection of claim 1-21 under 35 U.S.C. § 112, second paragraph

Claims 1-21 presently stand rejected as being indefinite. The examiner has identified terms lacking sufficient antecedent basis in claims 7, 17, and 20, and notes that language in claim 21 is not clear. Also, the examiner rejects claim 16, for essentially the reasons set forth with respect to the 35 U.S.C. § 112, first paragraph rejection discussed above. Further, the examiner asserts that claims 1-21 are generally narrative and indefinite, and fail to conform to current U.S. practice.

The claims have been amended to better conform to U.S. practice, and to address the particular issues identified by the examiner, and claim 14 has been cancelled. In view of the claim amendments, withdrawal of this rejection is respectfully requested.

Rejection of claims 1, 2, 4, 6, 9-11, and 13-21 under 35 U.S.C. § 102(e)

Claims 1, 2, 4, 6, 9-11, and 13-21 presently stand rejected as being anticipated by Daly et al (U.S. 5,878,141). This rejection is respectfully traversed for the following reasons.

Claim 1 has been amended to more clearly describe the present invention, pointing out that the node computer stores functionality data for providing a terminal with at least one functionality for performing a requested transaction, and that a terminal requests and receives from the node computer functionality data, wherein the functionality data provides the terminal with a functionality required for performing the requested transaction.

Claim 9 has been amended to more clearly describe the present invention, pointing out that the terminal processor unit cooperates with the portable data carrier to identify a type of transaction to be performed.

Claim 19 has been amended to more clearly describe the present invention, pointing out that a type of transaction to be performed is identified according to transaction specific data of a portable data card.

Claim 21 has been amended to more clearly describe the present invention, pointing out that data stored by the node computer for providing a terminal with at least one functionality for performing a requested transaction is transmitted from the node computer to the terminal such that the terminal is made by the data to be suitable for performing the transaction.

It is respectfully submitted that Daly fails to anticipate the present invention according to claims 1, 9, 19, and 21 because Daly fails to disclose or suggest each and every element set forth in these claims.

According to claims 1 and 21, a node computer stores functionality data that is used to supply a terminal with a functionality that the terminal lacks, but is required for a transaction that a user requests of the terminal. When a transaction is requested of a terminal, and the terminal lacks a functionality required to perform the transaction, the terminal requests from the node computer functionality data that is sent to the terminal to provide the required functionality. It is respectfully submitted that Daly fails to disclose or suggest such a feature.

As discussed in response to the previous Office Action, Daly discloses a system for mediating purchases between a purchaser, on one side, and a merchant, on the other side. Purchasers gain access to a network via known telecommunication terminals, and the merchant is represented by a transaction processing unit in connection with a merchant database. The system is used to mediate purchases between purchasers and merchants, and in particular to verify the financial abilities of the purchaser and to derive a common set of payment methods acceptable to the merchant and usable by the purchaser.

However, Daly does not provide any teaching or suggestion that terminals for processing a transaction *can be adapted to carry out* transactions for which the terminal was not configured for at the start of the transaction. On the contrary, it must be noted that a primary focus of Daly is the determination of “a mutually agreeable payment method that is both accepted by the designated merchant and one of the requesting subscriber’s personal payment methods” (col. 11, lines 18-20). Daly clearly states that “if there are no available payment method, the purchasing system *denies the transaction* and informs the user” (col. 12, lines 62-64).

Thus, Daly provides *no capability for the terminal to be reconfigured* to perform a transaction that the terminal was not originally configured for. It follows that Daly simply has no need for a node computer to store functionality data that is used to supply a terminal with a functionality that the terminal lacks, but is required for a transaction that a user requests of the terminal, since there is no disclosed circumstance wherein any such request is made, or wherein any such data could be accepted by a terminal to define a previously unavailable functionality.

According to claims 9 and 19, recognition of a type of transaction to be performed is performed cooperatively with a portable data carrier. It is respectfully submitted that Daly fails to disclose or suggest such a feature.

While Daly discloses the use of a smart card in conjunction with an authentication procedure, Daly provides no teaching or suggestion at all that the smart card provides any information relating to, or any other influence on, a type of transaction to be performed. The *only* teachings of a smart card provided by Daly are found at lines 1-5 of column 9, wherein it is noted that “a smart card can be programmed with information about the user that is used to gain access to the purchasing system, such as the user’s PIN or signature tools.” (Daly; col. 9, lines 2-5). This clearly fails to teach or suggest that any recognition of a *type of transaction* to be performed is performed cooperatively with a portable data carrier. Daly’s system is only equipped to read and process a smart card according to a pre-defined functionality of the terminal, according to a predefined transaction type that the terminal is configured to perform.

Accordingly, it is respectfully submitted that Daly fails to disclose or suggest each and every element set forth in claims 1, 9, 19, and 21, and therefore it is respectfully submitted that claims 1, 9, 19, and 21 and their respective dependent claims are allowable over the cited references. Withdrawal of the rejection is requested.

Rejection of claims 3, 5, 7, 8, and 12 under 35 U.S.C. § 103(a)

Claims 3, 5, 7, 8, and 12 presently stand rejected as being unpatentable over Daly in view of Clark (U.S. 5,815,577). This rejection is respectfully traversed for at least the following reasons.

As discussed above, independent claims 1 and 9 are allowable over Daly because Daly does not disclose or suggest each and every limitation set forth in the claims. It is respectfully submitted that Clark, which discloses methods and apparatus for securely encrypting data in conjunction with a personal computer, fails to supplement the deficiencies of Daly with respect to the limitations of claims 1 and 9 discussed above. Therefore, it is respectfully submitted that claims 3, 5, 7, and 8, which depend from claim 1, and claim 12, which depends from claim 9, are allowable over the cited references, and withdrawal of this rejection is respectfully requested.

New claims

New claims 22-25 have been added, depending from independent claims 1, 9, 19, and 21 respectively. It is respectfully submitted that each of the new claims recites subject matter that is novel and non-obvious in view of the prior art of record, and it is therefore respectfully submitted that claims 22-25 are fully patentable over all the references of record.

Conclusion

In view of the amendments to the claims, and in further view of the foregoing remarks, it is respectfully submitted that the application is in condition for allowance. Accordingly, it is requested that claims 1-13 and 15-25 be allowed and the application be passed to issue.

Application No.: 10/030,078
Examiner: C. L. Hewitt II
Art Unit: 3621

If any issues remain that may be resolved by a telephone or facsimile communication with the Applicant's attorney, the Examiner is invited to contact the undersigned at the numbers shown.

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Respectfully submitted,

A handwritten signature in black ink, appearing to read "Justin J. CasSELL", written over a horizontal line.

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